

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE GENETICALLY MODIFIED RICE)	4:06 MD 1811 CDP
LITIGATION)	
)	ALL CASES
)	
)	

**JOINT REPORT OF LEAD COUNSEL ON
ISSUES TO BE RAISED AT JUNE 25, 2009 STATUS CONFERENCE**

Lead Counsel for Plaintiffs and Defendants report that the following issues will be raised at the June 25, 2009 status conference:

1. Speaking objections in depositions - John Baker, Liaison Counsel for European Non-Producers (ENPs).

Attachment 1 – Excerpt from deposition of John Shifflett.

Attachment 2 – Excerpt from deposition of Don McCaskill.
2. Relief from seven hour limit on depositions - John Baker, Liaison Counsel for ENPs.
 - A. Don McCaskill, Vice President for Research, Riceland Foods, Inc.

Time thus far: 6 hours 55 minutes by coordination among ENPs; 42 minutes by Bayer Defendants.

Additional time requested: 3.5 hours for two, contiguous mornings.
 - B. John Shifflett, Vice President for International Sales, Riceland Foods, Inc.

Time thus far: 8 hours 48 minutes by coordination among ENPs; 20 minutes by Bayer Defendants; 1 minute by Riviana Foods.

Additional time requested: 4 hours

3. Veetee Rice Limited's motion and memorandum for relief from the agreed order regarding preservation of communications, documents, electronic data and other tangible items (Doc. 149) – Debra Brown, Veetee Rice Ltd.
4. Report on settlement communications.
5. Supplementation of expert reports under Rule 26(e), Fed.R.Civ.P.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 18, 2009, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Don M. Downing

ATTACHMENT 1

June 15, 2009

IN RE: GMO RICE

THE FOLLOWING IS AN EXCERPT FROM THE DEPOSITION OF JOHN SHIFFLETT REPORTED ON JUNE 2, 2009 IN JONESBORO, ARKANSAS BY JACQUELINE MARVIN, CCR, CVR, REPORTER #296, PULASKI COUNTY, ARKANSAS.

NO OFFICIAL TRANSCRIPT PAGE NUMBERING OR LINE NUMBERING CURRENTLY AVAILABLE

QUESTIONS BY MR. BAKER

BY MR. BAKER:

Q Well you understood by October of 2000 that it was important for Riceland to be aware of its customers' concerns in Europe about any possible GMO issues, right?

MR. HOHN: Objection. Vague.

MR. BAKER: I'm going to object to speaking objections from here forth.

Judge Perry has made it very clear, Mr. Hohn, you are to object to the form only and to not have speaking objections. And so I'm going to go ahead, like I've done in earlier depositions, object to speaking objections.

{To the witness.} Continue now.

MR. HOHN: Well let me just say I disagree with your characterization. It's not a speaking objection.

MR. BAKER: You are coaching the witness --

MR. HOHN: I'm not.

MR. BAKER: -- by speaking the objection.

MR. HOHN: No, I'm not. So just continue with your questions.

THE WITNESS: Repeat your question, please.

BY MR. BAKER:

Q You understood by the date of Exhibit 397 that it was important for Riceland and its executives to be sensitive to any concerns their European customers had about anything about a GMO rice, correct?

MR. HOHN: Same objection.

{This concludes the portion I understand was requested.}

ATTACHMENT 2

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June 15, 2009

IN RE: GMO RICE

THE FOLLOWING IS AN EXCERPT FROM THE DEPOSITION OF DON MCCASKILL REPORTED ON JUNE 4, 2009 IN STUTTGART, ARKANSAS BY JACQUELINE MARVIN, CCR, CVR, REPORTER #296, PULASKI COUNTY, ARKANSAS.

NO OFFICIAL TRANSCRIPT PAGE NUMBERING OR LINE NUMBERING CURRENTLY AVAILABLE

QUESTIONS BY MR. BAKER

BY MR. BAKER:

Q You would differentiate between GE and GMO as the former being done purposely by man as opposed to naturally perhaps in ecology; right?

MR. OLSON: Objection. Vague.

A I wouldn't necessarily make that distinction. Genetically engineered could also be done with nontransgenic techniques.

Q Tell me what you understand GE between 1996 and 2006 to have meant.

MR. OLSON: Objection. Vague.

MR. DEACON: And I object to form.

{To the witness} You can answer if you understand

it.

MR. BAKER: I'm going to go on record again and make it clear that Judge Perry has cautioned and instructed all of us to not have speaking objections. And therefore I do not appreciate anything of an objection other than to the form of the question.

MR. OLSON: That's absolutely not her rule.

Objection. Vague.

{To the witness} You can answer.

MR. BAKER: What do you believe her rule to be, Mr. Olson?

MR. OLSON: I believe the rule to be what is set forth in the Federal Rules of Civil Procedure, which is a short plain statement of the basis for the objection, which is what I did.

If there's any order you can point me to that says it has to be limited to form, I'm happy review it, but there is no such order to my knowledge.

MR. BAKER: You don't recall what she said at our last status conference about the topic?

MR. OLSON: Let's proceed with the deposition; we only have 7 hours.

BY MR. BAKER:

Q Between 1996 and 2006 when we are speaking with reference to food and one would use the term, or you would use the term, "GE," what did you mean?

A I would've meant a food that's been improved or

modified through genetics, regardless of technique

necessarily.

{This concludes the portion I understand was
requested.}